APPENDIX A.

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION.

Before Commissioners: Jerome K. Kuykendall, Chairman; Seaborn L. Digby, Frederick Stueck and William R. Connole.

In the Matter of Phillips Petroleum Company
Docket No. G-3176

ORDER VACATING SUSPENSION PROCEEDINGS AND ESTABLISHING EFFECTIVE RATE

Adopted: February 8, 1956 Issued: February 9, 1956

Phillips Petroleum Company (Phillips) on August 31, 1954, submitted for filing a basic contract dated December 11, 1945, and certain amendatory and supplementary agreements thereto, relating to the sale of natural gas to Michigan Wisconsin Pipeline Company (Michigan-Wisconsin). The basic contract was designated as Phillips Petroleum Company FPC Gas Rate Schedule No. 4. The basic contract as amended on December 1, 1949, contains a provision that Phillips' base price upon the happening of certain contingencies would be escalated in the same ratio as Michigan-Wisconsin's effective rates to its customers exceeded 25 cents per Mcf. Pursuant to rate increase filings in two separate dockets and upon expiration of suspension periods therein, Michigan-Wisconsin on October 1, 1951, began charging 31.5 cents per Mcf, (Docket No. G-1678) and on December 12, 1952, 35 cents per Mcf (Docket No. G-1996) for its wholesale sales of natural gas, subject to refund of all amounts found by the Commission, after hearing, to be not justified.

By letter agreements dated October 30, 1951, with respect to the October 1, 1951 increase and January 15, 1953 with respect to the December 12, 1952 increase, Michigan-Wisconsin and Phillips agreed that Michigan-Wisconsin

would pay Phillips the escalated price based upon the increased rates, subject, however, to refund of any amount paid in excess of that required by the contract formula based on the Michigan-Wisconsin's wholesale rate ultimately approved by this Commission. The letter agreements of October 30, 1951, and January 15, 1953, were included by Phillips in its filing of August 31, 1954, and were designated as Supplements 8 and 11, respectively, to Phillips FPC Gas Rate Schedule No. 4.

By order issued October 1, 1954, in this docket, Supplements Nos. 8 and 11 to Phillips FPC Gas Rate Schedule No. 4 were suspended and their use deferred until February 1, 1955. By order issued in this docket on December 8, 1954, the Commission modified the suspension order issued October 1, 1954, to permit Phillips to file a new supplement to its FPC Gas Rate Schedule No. 4 to make effective as of June 7, 1954, a base rate of 8.374 cents per Mcf at 14.65 psia,[1] plus certain adjustments.[2]

On February 7, 1955, Phillips filed in the United States Court of Appeals for the Tenth Circuit its Petition to Review and Set Aside the foregoing orders of October 1, 1954, and December 8, 1954. The Court by its opinion in Case No. 5096, *Phillips Petroleum Company, Petitioner,* v. *Federal Power Commission, Respondent,* decided November 16, 1955, held that the effective base rate on June 7, 1954, for Phillips' sales to Michigan-Wisconsin was 8.4684 cents per

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1. The Commission had fixed Michigan-Wisconsin's rate at 31.25 cents per Mcf in Docket No. G-1678, and giving effect to the escalation clause, on the basis of such rate, Phillips' base rate would have been 8.374 cents per Mcf. However, Phillips did not make a satisfactory filing of the 8.374 cent rate to meet the conditions of the order.

2. The adjustments on the "Dedicated Acreage" price are for Texas and Oklahoma taxes and for Oklahoma minimum price order. These adjustments are not at issue in this proceeding. The same adjustments apply to the 8.4684 cents per Mcf rate.

Mcf[3] and that such rate was not subject to suspension under Section 4 (e) of the Natural Gas Act.

Accordingly, pursuant to the opinion and mandate of the United States Court of Appeals for the Tenth Circuit, the suspension proceedings with respect to Supplements 8 and 11 to Phillips FPC Gas Rate Schedule No. 4 must be vacated and the rate of 8.4684 cents per Mcf established as the effective base rate for the sale of "Dedicated Acreage" gas by Phillips to Michigan-Wisconsin.

The Commission *orders*:

(A) The suspension proceedings in this docket with respect to Supplements 8 and 11 to Phillips FPC Gas Rate Schedule No. 4 be and they are vacated and the rate of 8.4684 cents per Mcf established as the effective base rate for the sale of natural gas by Phillips to Michigan-Wisconsin from the so-called "Dedicated acreage" on June 7, 1954.

By the Commission.

/s/ Leon M. Fuquay,
Leon M. Fuquay, Secretary.

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3. The court held that the rate of 31.60 cents per Mcf fixed by the Commission on August 17, 1954, in Docket No. G-1996 for Michigan-Wisconsin effective from December, 1952, was determinative of Phillips' rate on June 7, 1954, and thereby fixed such base rate under the escalation clause at 8.4684 cents per Mcf. To this must be added the adjustments noted in 2 above. Similarly applying the court's reasoning to the rate for gas from Stratford acreage the rate for that gas on June 7, 1954, was 8.993 cents per Mcf plus adjustment for Texas taxes.